



**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

FILED
8-08-16
04:59 PM

Order Instituting Rulemaking Regarding Whether to Adopt,
Amend, or Repeal Regulations Governing the Award of
Intervenor Compensation.

R.14-08-020
(Filed August 28, 2014)

***EX PARTE* NOTICE
OF RATEPAYERS OF LAKE ALPINE WATER COMPANY ("RLAWC")
AND BRUCE AND PAULA ORVIS**

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August 8, 2016

Pursuant to Rule 8.3 of the Commission's Rules of Practice and Procedure, the Ratepayers of Lake Alpine Water ("RLAWC") and Bruce and Paula Orvis (collectively, the "Protesters") hereby file a Notice of *Ex Parte* Communication in the above captioned case. On August 3, 2016, Anita Taff-Rice, counsel for RLAWC, and Stephen Bowen, counsel for Bruce and Paula Orvis, met with Sepideh Khosrowjah, Chief of Staff to Commissioner Mike Florio, at the Commission's offices in San Francisco. The meeting began at approximately 2 p.m. and lasted approximately 30 minutes.

Ms. Taff-Rice and Mr. Bowen discussed the scope of this proceeding and expressed support for the proposed decision issued in R.14-08-020 that would adopt a new rule 17.5 requiring non-utility applicants to post a bond to pay intervenor compensation claims. They indicated that requiring non-utility applicants to post a bond is warranted whether the applicant seeks to become a utility directly, or seeks to acquire control of an existing utility because the applicant is the entity that invokes the Commission's processes and creates costs for intervenors that wish to participate in the proceeding. Ms. Taff-Rice and Mr. Bowen noted that the proposed decision erroneously concludes that it lacks jurisdiction to require a non-utility applicant to post a bond for an application to acquire control of an existing utility.

Ms. Taff-Rice noted that if a non-utility applicant acquires a controlling interest in an existing utility, it becomes an affiliate and effectively becomes a holding company of the regulated utility.¹ Ms. Taff-Rice noted that there is a long history of precedent establishing that the Commission has authority to impose requirements, including financial requirements, on holding companies.

Ms. Taff-Rice and Mr. Bowen noted that the subject of a proceeding examining an

¹ RLAWC Opening Comments, at pp. 6-8.

application to acquire a controlling interest in a utility is the fitness of the applicant, not the utility. The intervenor compensation statute requires the utility that is the subject of the proceeding to pay intervenor compensation, but the representatives noted that a non-utility that controls a utility may be considered to be a utility for the purpose of requiring intervenor compensation payments. They noted that in *PG&E v. PUC*, a California court interpreted the word “utility” as used in the public utilities code to include related entities such as holding companies.

Ms. Taff-Rice and Mr. Bowen noted that if the proposed decision is not corrected to require non-utility applicants to pay intervenor compensation, then the costs will be borne by the utility, which may have had nothing to do with the application being filed. They noted that it may well be the case that a utility whose stock is being purchased has no role in the transaction, and in fact may even oppose the attempted acquisition. They further noted a specific example of this in the acquisition of a controlling interest in Lake Alpine Water Company by Aspen Forest Investment Company (“Aspen”) in A.11-04-013.

Ms. Taff-Rice stated that because some ratepayers were unhappy with the service and rates of LAWC after the acquisition, they began to question why the Commission approved the transaction, only to find out that Aspen had not obtained permission as it was required to do under Section 854. She noted that, at the urging of the ratepayers, Commission staff required Aspen to file an application. LAWC did not participate in filing of the application.

Ms. Taff-Rice noted that RLAWC protested the application and was found eligible to receive intervenor compensation. She noted that an award was made and it was passed along to ratepayers in the form of a surcharge on their bills. Ms. Taff-Rice noted that RLAWC had received approximately \$42,000 as an intervenor compensation award, and because LAWC has

only 500 customers, an intervenor compensation surcharge was noticeable and discourages further participation by ratepayers in Commission proceedings. Ms. Taff-Rice noted that the amount of intervenor compensation is subject to a pending re-hearing granted after RLAWC filed an application for rehearing seeking an adjusted award amount and a ruling that Aspen should have to pay the intervenor compensation.

No written materials were provided during the meeting.

Signed and dated: August 8, 2016

Respectfully submitted,

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